

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-2-E - ORDER NO. 2009-216

APRIL 9, 2009

IN RE: Annual Review of Base Rates for Fuel Costs)
 of South Carolina Electric & Gas Company)
) ORDER GRANTING
) CONFIDENTIAL
) TREATMENT

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the motions of South Carolina Electric & Gas Company (“SCE&G” or “the Company”) for confidential treatment of certain material in this docket.

As set forth in letter from the Commission’s Docketing Department of February 11, 2009, and pursuant to 26 S. C. Code Ann. Regs. 103-845(Supp. 2008), the South Carolina Office of Regulatory Staff (“ORS”) and CMC Steel South Carolina (“CMC Steel”) on March 5, 2009, filed the direct testimony and exhibits of their witnesses in this proceeding regarding the annual review of SCE&G’s base rates for fuel costs. SCE&G moved on March 9, 2009, for this Commission to hold the confidential version of the direct testimony and exhibits of ORS witness A. Randy Watts and the confidential version of the direct testimony and exhibits of CMC Steel witness Richard Thomas as proprietary information and be protected from public disclosure. Further, on March 12, 2009, SCE&G filed the rebuttal testimony and exhibits of four witnesses on behalf of the Company. Concurrent with the filing of the testimony, SCE&G requested for this Commission to hold the confidential version of the rebuttal testimony of Company witnesses Gerhard Haimberger, John S. Beier, and Forrest E. Hill as proprietary

information and be protected from public disclosure. In accordance with Commission Order No. 2005-226, “Order Requiring Designation of Confidential Materials”, issued May 6, 2005, SCE&G sets forth in its requests the material for which the Company seeks confidential treatment and files such information in separate, sealed packages clearly marked “confidential.”

Pursuant to 26 S.C. Code Ann Regs. 103-804(S)(2), the determination of whether a document may be exempt from disclosure is within the Commission’s discretion. The South Carolina Freedom of Information Act (“FOIA”) allows exemption from disclosure proprietary business information that meets a definition of “trade secrets.” S.C. Code Ann. Section 30-4-40(a)(1) states that matters which may be exempt from FOIA include: “(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes....Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, and evaluations and other materials which contain references to potential customers, competitive information or evaluation.”

During the pendency of this proceeding, SCE&G advises that the Company entered into confidentiality agreements with ORS and CMC Steel for protection of certain information that SCE&G had provided to ORS and CMC Steel at their request. The parties agreed, *inter alia*, to treat the information as proprietary, commercially and/or competitively sensitive or confidential or in the nature of a trade secret and to safeguard such information so as to prevent disclosure to any other person. To the extent that a receiving party desired to use any of the confidential information as part of any filing,

argument, or hearing in this proceeding, the party would agree to work with SCE&G to establish a procedure designed to protect the confidential information from disclosure to any unauthorized person(s).

As to SCE&G's motion for confidential treatment of testimony and exhibits of ORS witness Watts and CMC Steel witness Thomas, SCE&G states that their testimony incorporates confidential information relative to the confidentiality agreements signed by the parties. Specifically, witness Watts' testimony and exhibits address issues pertaining to coal supplier contracts and transportation rates and witness Thomas' testimony and exhibits address issues pertaining to coal contracts with various vendors, which SCE&G asserts is confidential information. In keeping with the terms of the confidentiality agreements between the parties, SCE&G requests that the specified testimony and exhibits be held confidential by this Commission. According to SCE&G, many, if not all, of the underlying contracts to be discussed by these witnesses contain confidentiality provisions that require SCE&G to protect proprietary information that the contractors and vendors believe to constitute trade secrets and to be commercially sensitive.

Furthermore, SCE&G asserts that due to the highly competitive nature of these industries disclosure of this confidential information could adversely affect SCE&G's ability to enter into arms-length transactions with future vendors, thus resulting in the potential for less favorable terms and prices for SCE&G and its customers. We find that the information contained in the confidential versions of the testimony and exhibits of ORS witness A. Randy Watts and CMC Steel witness Richard Thomas for which

SCE&G seeks protection as confidential falls within the definition of materials which may be exempted from disclosure under FOIA.

As to SCE&G's request for confidential treatment of the rebuttal testimony of Company witnesses Gerhard Haimberger, John S. Beier, and Forrest E. Hill, SCE&G in its written request incorporates by reference its motion of March 9, 2009, for confidential treatment and reiterates its reasoning the testimony necessitates confidentiality. We addressed this issue at the hearing on March 26, 2009, and determined that confidential treatment was appropriate for this material.

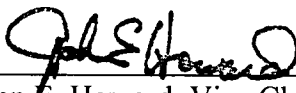
The requests of SCE&G for a declaration of confidentiality and the issuance of a protective order are granted as requested. The specified testimony and exhibits shall be deemed confidential, and the disclosure of the stated information shall be barred, subject to South Carolina statutory, regulatory, and case law. In the event disclosure of the information is sought, this Commission shall provide notice of such request, and SCE&G and the requestor(s) will be provided with an opportunity for hearing on the matter before this Commission.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)